

FISCAL NOTE

SB 3280 – HB 3637

February 7, 2008

SUMMARY OF BILL: Amends the open government law in several ways. Authorizes the court to award reasonable attorney's fees to the plaintiff to be levied against the governing body in a case where the plaintiff substantially prevails. Requires the Municipal Technical Advisory Service (MTAS), the County Technical Assistance Service (CTAS), the Tennessee School Board Association, the Utility Management Review Board, and the State Emergency Communications Board to provide training to local government entities regarding the open meetings law. Establishes procedures for executive sessions of governing bodies. Requires state, county, and municipal records to be open to any person during regular business hours. Establishes in general law the Office of Ombudsperson and creates an Advisory Committee to the Ombudsperson.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$22,500/One-Time

Increase State Expenditures - \$140,400/Recurring

Increase Local Expenditures* - Exceeds \$100,000/Recurring

Assumptions:

- In the absence of this legislation, the governor would continue to fund the two existing positions in the Office of Ombudsperson in the appropriations bill.
- According to the Comptroller, state expenditures will increase \$130,000 for the statutory establishment of the Office of Ombudsperson. This will require an additional full-time professional, at a total cost of \$150,000. \$100,000 is for one additional employee, at a salary of \$81,000 and benefits of 23% (\$18,630) for a total of \$99,630. \$25,000 is for statewide travel costs for the new employee. \$25,000 is a one-time cost for software development and equipment, including the development of a new computer program and development of a public website with search capabilities. There will be a recurring \$5,000 cost for continued maintenance.
- State expenditures will increase \$2,500 one-time and \$7,500 recurring for training programs. MTAS and CTAS have already established

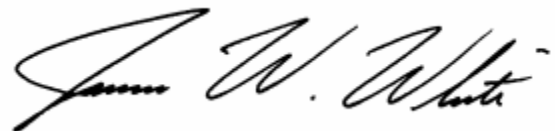
training programs on open government and will not require additional resources. The Tennessee School Board Association and the State Emergency Communications Board can incorporate open government training into existing training with no significant additional cost. The Utility Management Review Board does not currently have such training in place. The Board estimates a recurring increase in expenditures of \$7,500 for training program travel and materials per year. These programs will be held annually in five locations statewide. The Board estimates a one-time increase in expenditures of \$2,500 for development of the program.

- State expenditures will increase \$2,880 for travel costs for the Advisory Committee [(6 non-legislator members x 4 meetings per year = 24) x \$120 travel reimbursement = \$2,880].
- Local government expenditures will increase as a result of authorizing courts to levy attorney fees against local governments when the judgment is against them. It is not known how many cases will occur annually.
- Local government expenditures will increase as a result of additional requirements placed on the custodian of records.
- An accurate estimate for the increase in local government expenditures is not possible beyond exceeds \$100,000, because the number of cases successfully litigated against local governments and the cost for additional openness in public records (such as copy costs) is unknown.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/kmc